

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPEAL BRIEF- 37 C.F.R. 1.192

U.S. Patent Application 09/863,268 entitled,

“BUSINESS METHOD OF PROVIDING A CHANNEL FOR DELIVERING AND
DISTRIBUTING EVENTS BASED ON A SUBSCRIPTION MODEL FOR SERVICE
PROVIDERS TO ENHANCE SALES OPPORTUNITIIES”

Real Party in Interest: International Business Machines Corporation

Related Appeals and Interferences:

NONE

Status of Claims:

Claims 28-55 are pending.

Claims 28-55 stand rejected under 35 U.S.C. §103(a) as being unpatentable over **Thompson et al.** (U.S. Patent 6,675,151).

Status of Amendments:

No After-Final amendments were submitted after the Final Office Action of 08/29/2006.

Summary of Claimed Subject Matter:

The presently claimed invention, in **claim 28**, provides a computer-based system utilizing an event matching system for service providers, said system comprising: a window of opportunity event generator (**see figure 3, element 300 and page 12, lines 3-5 of pending application-as-filed**) (also see, page 8, line 19 through page 13, line 18, and page 18, line 20 through page 19, line 14 of application serial no. 09/768,458, which was noted as related and was incorporated by reference in the pending application-as-filed), said window of opportunity event generator automatically identifying an event, said event comprising an unexpected period of inactivity when a scheduled activity is blocked; a distribution channel analyzer (**see figure 3, element 308 and page 12, line 17 through page 13, line 14 of pending application-as-filed**), said distribution channel analyzer analyzing said event to determine whether said event is likely to generate an increase in sales; and an event matcher (**see figure 3,**

element 310 and page 14, line 2 through 11 of pending application-as-filed), said event matcher receiving said event from said distribution channel analyzer if said distribution channel analyzer determines that said event is likely to generate said increase in sales, and said event matcher selecting at least one of said service providers for said event from a service provider database.

The presently claimed invention, in **claim 29**, in addition to the features of claim 28, provides a system that further comprises: an accounting manager (**see figure 3, element 312 and page 14, lines 12-15 of pending application-as-filed**), said accounting manager cooperating with said event matcher to provide an accounting functionality for said at least one of said service providers.

The presently claimed invention, in **claim 30**, in addition to the features of claim 29, provides a system comprising a service provider profile database (**see figure 3, element 302 and page 12, lines 6-9 of the application-as-filed**), said service provider profile database containing informational data of said service providers.

The presently claimed invention, in **claim 31**, in addition to the features of claim 28, provides a service provider profile manager (**see page 13, lines 15-17 of application-as-filed**) for said service provider database, said service provider profile manager allowing service providers to customize and manage profile data in said service provider database.

The presently claimed invention, in **claim 32**, in addition to the features of claim 28, provides an event database (**see figure 3, element 318 and page 13, lines 2-5 of application-as-filed**), said event database storing data relating to events for which a service provider is selected

by said event matcher.

The presently claimed invention, in **claim 33**, in addition to the features of claim 28, provides a channel rules database (**see figure 3, element 316 and page 14, lines 21-22 of application-as-filed**) containing rules to be applied to particular channels.

The presently claimed invention, in **claim 34**, in addition to the features of claim 28, provides data and rules obtained from an institutional or organizational database (**see figure 3, element 306 and page 12, lines 13-16 of application-as-filed**), said institutional or organizational database containing additional informational data of selected institutions or organizations.

The presently claimed invention, in **claim 35**, in addition to the features of claim 34, provides an institutional or organizational profile manager (**see page 13, line 21- page 14, line 1 of application-as-filed**), said manager allowing said selected institutions or organizations to customize and manage profile data in said database.

The presently claimed invention, in **claim 36**, in addition to the features of claim 28, provides a subscription management service (**see page 10, lines 9-14 of application-as-filed**), wherein at least one said unexpected period of inactivity is defined for tracking.

The presently claimed invention, in **claim 37**, in addition to the features of claim 36, provides a location tracker (**see figure 3, element 314 and page 14, lines 16-20 of application-as-filed**), said tracker employed to keep track of subscribed consumers.

The presently claimed invention, in **claim 38**, in addition to the features of claim 37, provides for a consumer profile database (see **figure 3, element 304 and page 12, lines 10-12 of application-as-filed**) for storing consumers' informational data.

The presently claimed invention, in **claim 39**, in addition to the features of claim 38, provides for a consumer profile manager (see **page 13, lines 18-20 of application-as-filed**), wherein said manager allows consumers to customize and manage profile data in said database.

The presently claimed invention, in **claim 40**, in addition to the features of claim 37, provides for a tracking device (see **figure 5, elements 500 and 502 and page 15, lines 13-18 of application-as-filed**) used to transmit location data continuously to said location tracker.

The presently claimed invention, in **claim 41**, in addition to the features of claim 40, wherein the tracking device (see **figure 5, elements 500 and 502 and page 15, lines 13-18 of application-as-filed**) generates said location data from a source of positional data selected from the group consisting of: a GPS receiver; a cellular telephone; or any other wireless system.

The presently claimed invention, in **claim 42**, provides an e-commerce method for enhancing sales of service providers, said service providers in communication across networks and available to provide one or more specific services through directed sales to selected customers, said method comprising the steps of: automatically detecting at least one sales opportunity based on at least one unexpected period of inactivity when a scheduled activity is blocked (see **figure 4, step 400 and page 15, lines 7-12 of application-as-filed**) (also see also see, **page 8, line 19 through page 13, line 18, and page 18, line 20 through page 19, line 14 of application serial no. 09/768,458**, which was noted as related and was incorporated by

reference in the pending application-as-filed); analyzing said at least one sales opportunity to determine whether said sales opportunity is a beneficial opportunity likely to generate an increase in sales (**see figure 4, step 402 and page 15, lines 7-12 of application-as-filed**); matching said beneficial opportunity with information from a subscriber profile database to select one or more of said service providers as a selected service provider (**see figure 4, step 404 and page 15, lines 7-12 of application-as-filed**); and notifying said selected service provider of said beneficial opportunity (**see figure 4, step 406 and page 15, lines 7-12 of application-as-filed**).

The presently claimed invention, in **claim 43**, in addition to the features of claim 42, provides an accounting functionality (**see figure 3, element 312 and page 14, lines 12-15 of pending application-as-filed**) for said one or more of said service providers by analyzing events and transactions of actual sales.

The presently claimed invention, in **claim 44**, in addition to the features of claim 42, provides an external service provider profile database (**see figure 3, element 302 and page 12, lines 6-9 of the application-as-filed**) for said step of matching said beneficial opportunity with information from a subscriber profile database further comprises using.

The presently claimed invention, in **claim 45**, in addition to the features of claim 44, provides the management and customization of profiles (**see page 13, lines 15-17 of application-as-filed**) of said service providers in said service provider profile database.

The presently claimed invention, in **claim 46**, in addition to the features of claim 45, provides for the storage of said events in an event database (see **figure 3, element 318 and page 15, lines 1-3**).

The presently claimed invention, in **claim 47**, in addition to the features of claim 42, provides for obtaining rules from a channel rules database to be applied to particular channels (see **figure 3, element 316 and page 14, lines 21-22 of application-as-filed**).

The presently claimed invention, in **claim 48**, in addition to the features of claim 42, provides for an institutional/organizational profile database containing data of selected institutions or organizations in which events may take place (see **page 13, line 21- page 14, line 1 of application-as-filed**).

The presently claimed invention, in **claim 49**, in addition to the features of claim 48, further provides for managing and customizing profiles of institutions or organizations in said institutional/organizational profile database (see **page 13, line 21- page 14, line 1 of application-as-filed**).

The presently claimed invention, in **claim 50**, in addition to the features of claim 42, further provides for tracking schedules of subscribed consumers or said service providers (see **page 10, lines 20-21 of application-as-filed**).

The presently claimed invention, in **claim 51**, in addition to the features of claim 50, further provides for a tracking device (see **figure 5, elements 500 and 502 and page 15, lines 13-18 of application-as-filed**) to keep track of the location of said subscribed consumers.

The presently claimed invention, in **claim 52**, in addition to the features of claim 51, further provides for a tracking device (see **figure 5, elements 500 and 502 and page 15, lines 13-18 of application-as-filed**) that generates said location data from a source of positional data selected from the group consisting of: a GPS receiver; a cellular telephone; or any other wireless system.

The presently claimed invention, in **claim 53**, in addition to the features of claim 50, further provides for storing a profile of at least one consumer in a consumer profile database (see **figure 3, element 304 and page 12, lines 10-12 of application-as-filed**).

The presently claimed invention, in **claim 54**, in addition to the features of claim 53, further provides for managing and customizing said profile of said at least one consumer in said consumer profile database (see **figure 3, element 304 and page 12, lines 10-12 of application-as-filed**).

The presently claimed invention in claim 55 provides an article of manufacture comprising a computer program product, said computer program product comprising a computer readable medium storing processor-executable program code, said computer readable program code embodying a method comprising the steps of: automatically detecting at least one sales opportunity based on at least one unexpected period of inactivity when a scheduled activity is blocked (see **figure 4, step 400, page 15, lines 7-12, and page 16, lines 11-17 of application-as-filed**) (also see also sec, page 8, line 19 through page 13, line 18, and page 18, line 20 through page 19, line 14 of application serial no. 09/768,458, which was noted as related and was incorporated by reference in the pending application-as-filed); analyzing said at least one sales opportunity to determine whether said sales opportunity is a beneficial

opportunity likely to generate an increase in sales (**see figure 4, step 402 and page 15, lines 7-12 of application-as-filed**); matching said beneficial opportunity with information from a subscriber profile database to select one or more of said service providers as a selected service provider (**see figure 4, step 404 and page 15, lines 7-12 of application-as-filed**); and aiding in notifying said selected service provider of said beneficial opportunity (**see figure 4, step 406 and page 15, lines 7-12 of application-as-filed**).

Grounds of Rejection to be Reviewed on Appeal:

- I. Was an ambiguous rejection issued with respect to claims 37-41 and 51-54?
- II. With respect to pending claims 28-55 was a proper rejection made under 35 U.S.C. § 103(a) using existing USPTO guidelines?

Argument:

I. Was an ambiguous rejection issued with respect to claims 37-41 and 51-54?

On page 8 of the Office Action of 08/29/2006, the Examiner states that “**Claims 28-55** are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. (US 6,675,151).”

However, on page 19 of the same Office Action of 08/29/2006, the Examiner contradicts the above statement by asserting that “**Claims 37-41** and **51-54** are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. as applied to claim 28 above, and further in view of Robert English’s ‘Locked in Your Car? You Can Chose Who Helps You In and Out Of Your Jam’”.

Applicants assert that as per M.P.E.P. guidelines, claims 37-41 and 51-54 cannot be rejected twice, once under Thompson et al., and a second time under Thompson et al. in view of English.

Hence, Applicants submit that an ambiguous rejection was issued by the Examiner with respect to claims 37-41 and 51-54.

II. With respect to pending claims 28-55 was a proper rejection made under 35 U.S.C. § 103(a) using existing USPTO guidelines?

Claims 28-55 stand rejected under 35 U.S.C. §103(a) as being unpatentable over **Thompson et al.** (U.S. Patent 6,675,151).

To establish a prima facie case of obviousness under U.S.C. §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Additionally, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure (In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Applicants contend, as will be seen in the arguments below, that the Examiner, based on the office action of 08/29/2006 has failed to establish a prima facie case of obviousness under U.S.C. §103.

In defense of the Examiner's argument that an employee's absence equates to an event, the Examiner, in the 'Response to Arguments' section of the Final Office Action of 08/29/2006, erroneously states that the Applicants' specification does not explicitly define "event". Applicants respectfully disagree with the Examiner statement as it appears that the Examiner has not given due consideration to Applicants' related application, application serial number 09/768,458 filed on January 25, 2001, entitled "Enhancing Sales for Service Providers by Utilizing an Opportunistic Approach Based on an Unexpected Change in Schedule of Services (time, location)," assigned to the same assignee as the present application, which was

incorporated by reference. A closer examination of page 9 of the related application 09/768,458 reveals that “events” are “primarily changes in schedule of public/private service providers (trains, planes, buses, etc.) or other publicly known events (e.g., rock concerts, art performances, etc.). On the same page, one can find the statement that “more generally, whenever there’s an unexpected change in a schedule, and one or more people (dependants) might be affected from this change, such that they are blocked (e.g., have to wait, cannot engage in other activities), the present invention defines this event as a ‘window of opportunity’”. It can be clearly seen that the specification-as-filed is clear and precise with respect to the term “event” and cannot be erroneously equated to Thompson’s “worker absence”.

The presently claimed invention, in **claim 28**, provides a computer-based system utilizing an event matching system for service providers, said system comprising: a window of opportunity event generator, said window of opportunity event generator automatically identifying an event, said event comprising an unexpected period of inactivity when a scheduled activity is blocked; a distribution channel analyzer, said distribution channel analyzer analyzing said event to determine whether said event is likely to generate an increase in sales; and an event matcher, said event matcher receiving said event from said distribution channel analyzer if said distribution channel analyzer determines that said event is likely to generate said increase in sales, and said event matcher selecting at least one of said service providers for said event from a service provider database.

Claim 28 specifically recites, in a computer-based method, the feature of a “window of opportunity detector automatically identifying an event”. Applicants respectfully assert and maintain that even if one were to assume for argument sake that Thompson’s “worker absence”

can be equated to Applicants' "event", such an event is NOT automatically identified. In Thompson's own words the automation aspect of their invention deals with automating the process of substitute fulfillment and NOT automating the identification of an event. In other words, even assuming that the "worker absence" is the event, **there is no teaching or suggestion in Thompson for automatically detecting such a worker absence**.

Specifically, column 5, lines 17-19 of Thompson discloses one embodiment (which is the preferred embodiment) wherein "an employee registers an absence and triggers the automated substitute fulfillment system procedure". For support, column 10, lines 15-45 of Thompson details various means via which an employee notifies their system. In one scenario, "worker 18, 46 may contact the communications and processing server 30 by telephone 48" where the employee "identifies himself and enters the details of his pending absence". In another scenario, "worker 18, 46 may also contact the communications and processing server 30 via the Internet 26". In yet another embodiment, "the worker 18, 46 notifies the organization 56". It is important to notice that in all embodiments of Thompson, the worker either directly notifies a system or the organization. Applicants respectfully assert that there is **no teaching or suggestion for an event such as a "worker absence" to be automatically identified as, in all embodiments, the worker contacts the system or the organization regarding the absence**. Such manual notification/registration of absence by an employee **CANNOT** be equated to the claim 28's feature of "automatically identifying an event". Hence, Thomson et al. cannot anticipate or render obvious claim 28's feature of "automatically identifying an event".

Applicants maintain that the prior art fails to teach or suggest claim 28's feature of

“analyzing said event to determine whether said event is likely to generate an increase in sales”. Applicants also maintain that Thompson et al. do not disclose any mechanism comparable to analyzing the likelihood of an increase in sales or analyzing a likelihood of an increase of any other quantity. The Examiner asserts that any temporary or substitute worker provided by a service provided generates an **increase** in sales and that a temporary or substitute worker is an opportunity for an increase in sales. Applicants respectfully disagree with this statement.

For example, if an organization had 10 employees making \$10 a day, the total sales possible under this scenario would be $10 \times 10 = \$100$. The absence of 1 worker among the 10 would **lower** sales to $10 \times 9 = \$90$. Now, in the event 1 worker is absent and a replacement has been found, the organization is still making $10 \times 10 = \$100$, which is NOT an increase in sales. Hence, the Examiner’s argument that Thompson’s fulfillment system would increase is erroneous as the best the organization could do is to find a fulfillment for an absent worker to maintain sales at \$100 per day.

Moreover, even if the argument that the “employee absence” could be correlated to the event that is analyzed for an increase in sales, a “substitute worker” would not generate an increase, but rather be a “substitute” or maintain the work that is supposed to be provided. A “substitute worker” can not increase sales and does not correlate to the event as required by the claim. Therefore, the “substitute worker” of Thompson does not read on the present claim and therefore does not provide the required elements.

Further, the Examiner states that the “applicant’s specification does not define a “sale”. Applicants respectfully disagree with the Examiner that such terms need to be defined as it is commonly used in the art of commerce and one of ordinary skill in the art would have understood the meaning of the term as used in the specification and in the claims, without needing additional explanation. As an example, the Examiner is directed to the American Heritage dictionary’s definition of a “sale” which is “the exchange of goods or services for an amount of money or its equivalent; the act of selling”.

Further, claim 28 requires “analyzing said event to determine whether said event is likely to generate an increase in sales.” However, in Thompson, as explained above with an example, there is no analysis that is performed to determine if an event is to generate an increase in sales as Thompson merely details a worker fulfillment system that replaces workers during an absence, when possible, to maintain sales. Hence, it would be moot to argue that Thompson performs analysis to see if sales can be increased. Hence, Thomson et al. cannot anticipate or render obvious claim 28’s feature of “analyzing said event to determine whether said event is likely to generate an increase in sales”.

Further, on page 3 of the Office Action of 08/29/2006, the Examiner states that “If said service provider was not selected to fulfill the employee absences, they would not receive any revenue or payment from a ‘sale’”. However, it should be noted that there is neither an explicit nor implicit recitation in Thompson for analyzing employee absence to determine if there is an increase in sales. Hence, Thomson et al. cannot anticipate or render obvious claim 28’s feature of “analyzing said event to determine whether said event is likely to generate an increase in

sales”.

The office action relies upon column 2, lines 34-48 of Thompson et al. in relation to the distribution channel analyzer or the analyzing step of the present invention. These passages merely relate to establishing the appropriate qualifications of acceptable substitute workers, and do not relate to analyzing a likelihood of an increase in sales, or indeed to analyzing a likelihood of an increase of any other quantity. Nor is this taught anywhere else in Thompson et al., and neither is there any suggestion that it would be obvious.

Hence, Thomson et al. cannot anticipate or render obvious various features of claim 28.

The presently claimed invention, in **claim 42**, provides an e-commerce method for enhancing sales of service providers, said service providers in communication across networks and available to provide one or more specific services through directed sales to selected customers, said method comprising the steps of: automatically detecting at least one sales opportunity based on at least one unexpected period of inactivity when a scheduled activity is blocked; analyzing said at least one sales opportunity to determine whether said sales opportunity is a beneficial opportunity likely to generate an **increase in sales**; matching said beneficial opportunity with information from a subscriber profile database to select one or more of said service providers as a selected service provider; and notifying said selected service provider of said beneficial opportunity.

The presently claimed invention in **claim 55** provides an article of manufacture comprising a computer program product, said computer program product comprising a computer readable medium storing processor-executable program code, said computer readable program code embodying a method comprising the steps of: automatically detecting at least one sales opportunity based on at least one unexpected period of inactivity when a scheduled activity is blocked; analyzing said at least one sales opportunity to determine whether said sales opportunity is a beneficial opportunity likely to generate an increase in sales; matching said beneficial opportunity with information from a subscriber profile database to select one or more of said service providers as a selected service provider; and aiding in notifying said selected service provider of said beneficial opportunity.

Similar to claim 28, the other independent claims 42 and 55 are directed to an e-commerce method and to a computer program product respectively, and include the limitation “analyzing said at least one sales opportunity to determine whether said sales opportunity is a beneficial opportunity likely to generate an increase in sales”. The examiner states that the “sales opportunity” required in the claims relates to the “temporary employment” of Thompson. The Examiner then continues to provide “a list of criteria for selecting an appropriate substitute 104, flags for special conditions 122” as being similar to the claims requirements of “analyzing said at least one sales opportunity to determine whether said sales opportunity is a beneficial opportunity likely to generate an increase in sales.” Neither the “temporary employment” nor “list of criteria” nor “flags” of Thompson are sales opportunities, nor are they able to generate an increase in sales. Further, the Examiner’s argument that “providing a substitute/replacement

worker results in an increase in “sale” which generates revenue for the service provider” is incorrect.

First, the claim requires that the “sales opportunity” be analyzed; Thompson fails to provide this element. Second, even if the absence of an employee could be correlated to the event, the worker would not generate an increase in sales. Rather, the “substitute/replacement worker” is a “substitute” and maintains the work/employment that is supposed to be provided. Therefore, the Applicant disagrees with the Examiner.

As mentioned above via an example, the absence of 1 worker among the 10 would **lower** sales to $10 \times 9 = \$90$, and if a replacement has been found, the organization is still making $10 \times 10 = \$100$, which is NOT an increase in sales. Hence, the Examiner’s argument that Thompson’s fulfillment system would increase is erroneous as the best the organization could do is to find a fulfillment for an absent worker to maintain sales at \$100 per day.

Since both claims 42 and 55 require similar features as claim 28, i.e., that the **sales opportunity be analyzed and generate an increase in sales**, and Thompson does provide the required elements in the claims, claims 42 and 55 are neither anticipated nor rendered obvious by the Thompson reference.

Also, dependent claims 29-41 and 43-54 are allowable at least for the above cited reasons as the dependent claims inherit all the features of the claim from which they depend. Hence, Applicants respectfully assert that claims 29-41 and 43-54 cannot neither be anticipated nor

rendered obvious by the Thompson reference.

Even though an ambiguous rejection was issued by the Examiner with respect to claims 37-41 and 51-54, Applicants have also presented arguments to the effect that claims 37-41 and claims 51-54 cannot be rendered obvious by the combination of Thompson and English.

With respect to claims 37-41 and 51-54, Applicants wish to note that the Thompson et al. reference could not have been combined with the English reference by one of ordinary skill in the art, as there would have been no teaching, suggestion, or motivation for allowing such a combination. Specifically, Thompson et al. relates to substitute worker fulfillment, whereas, Brown relates to roadside assistance using GPS technology. Applicants respectfully assert that one of ordinary skill in the art would have not been able to combine specific features of Thompson et al. with specific features of English without a teaching, suggestion, or motivation.

In order to establish a case of *prima facie* obviousness there must also be shown a motivation to combine the teachings of the cited references, namely Thompson et al. and English. To that end, some suggestion of the desirability to combine the references must be found and demonstrated in the references. This burden cannot be satisfied by simply asserting that the modification would have been “well within the ordinary skill of the art.”

As the CAFC stresses for a §103 rejection to stand, the Examiner is required to show with evidence the motivation, suggestion or teaching of the desirability of making the specific combination at issue. That evidence is required to counter the powerful attraction of a hindsight-

based obviousness analysis. See, for example, *In re Lee*, 277 F.3d 1338, 1343, 61 U.S.P.Q. 2d 1430, 1433 (Fed. Cir. 2002) ("Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references"). It is respectfully submitted that this involves more than a mere bold assertion that it would be obvious to combine the cited references. With respect, the Examiner has failed to indicate why one of ordinary skill in the art would be motivated to combine the teachings of Thompson et al. and English. *In re Lee* requires that the record must state with particularity all the evidence and rationale on which the PTO relies for a rejection and sets out that it is necessary to explain the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious.

Under *Lee*, the PTO must state in writing the **evidence** on which it bases its rejection. With respect, the present office action falls short of this requirement.

Applicants submit that there is no suggestion of the desirability to combine the Thompson et al. and English references, nor is there any motivation demonstrated in either of the references to combine them, nor is there any suggestion in either reference to adapt their teachings to provide the unique features of the present invention. Applicants also respectfully submit that the Examiner has failed to show, with evidence, a motivation, suggestion or teaching of the desirability of making the specific combination at issue. For the foregoing reasons, reconsideration is respectfully requested.

Furthermore, even for argument purposes, it is assumed that references were to be combined; Applicants respectfully maintain that such a combination would not teach the features of Applicants' pending claims 37-41 and 51-54.

English merely relates to a roadside assistance system, specifically the system known as Onstar, and states in pertinent part that "General Motors of Canada Ltd. Includes roadside assistance for new car buyers, but also now offers an emergency system called Onstar, which makes use of the global positioning satellite system and the cellular network to get help to a driver with problems. Onstar, which you buy as an option and pay a monthly fee to use, can do such things as unlocking your car via a satellite signal, or even summoning aid if you've had a crash and are incapacitated."

Applicants respectfully assert that English also does not supply the previously described deficiencies of Thompson. Hence, the combination of Thompson and English cannot render obvious Applicants' claims 37-41 and 51-54.

Since the art of record does not teach or suggest the features of Applicants' claims 28-55, Applicants respectfully assert that an improper rejection was issued with respect to pending claims 28-55.

SUMMARY

As has been detailed above, none of the references, cited or applied, provide for the specific claimed details of applicants' presently claimed invention, nor render them obvious. It

is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested.

As this Appeal Brief has been timely filed within the set period of response, no petition for extension of time or associated fee is required. However, the Commissioner is hereby authorized to charge any deficiencies in the fees provided, to include an extension of time, to Deposit Account No. 09-0441.

Respectfully submitted by
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CLAIMS APPENDIX:

28. (Previously Presented) A computer-based system utilizing an event matching system for service providers, said system comprising:

a window of opportunity event generator,

said window of opportunity event generator automatically identifying an event,

said event comprising an unexpected period of inactivity when a scheduled activity is blocked;

a distribution channel analyzer,

said distribution channel analyzer analyzing said event to determine whether said event is likely to generate an increase in sales; and

an event matcher,

said event matcher receiving said event from said distribution channel analyzer if said distribution channel analyzer determines that said event is likely to generate said increase in sales, and

said event matcher selecting at least one of said service providers for said event from a service provider database.

29. (Previously Presented) A system according to claim **28**, further comprising:

an accounting manager,

said accounting manager cooperating with said event matcher to provide

an accounting functionality for said at least one of said service providers.

30. (Previously Presented) The system according to claim **29**, wherein:

said database comprises a service provider profile database,

said service provider profile database containing informational data of said
service providers.

31. (Previously Presented) The system according to claim **28**, wherein:

said system further utilizes a service provider profile manager for said service provider
database,

said service provider profile manager allowing service providers to
customize and manage profile data in said service provider database.

32. (Previously Presented) The system according to claim **28**, wherein:

said system further utilizes an event database,

said event database storing data relating to events for which a service
provider is selected by said event matcher.

33. (Previously Presented) The system according to claim **28**, wherein:

said distribution channel analyzer further utilizes a channel rules database containing
rules to be applied to particular channels.

34. (Previously Presented) The system according to claim **28**, wherein:

said distribution channel analyzer further utilizes data and rules obtained from an institutional or organizational database,

said institutional or organizational database containing additional informational data of selected institutions or organizations.

35. (Previously Presented) The system according to claim **34**, wherein:

said data and rules of said distribution channel analyzer further utilize an institutional or organizational profile manager,

said manager allowing said selected institutions or organizations to customize and manage profile data in said database.

36. (Previously Presented) The system according to claim **28**, wherein:

said system further comprises a subscription management service, wherein:

at least one said unexpected period of inactivity is defined for tracking.

37. (Previously Presented) The system according to claim **36**, wherein:

said system further comprises a location tracker,

said tracker employed to keep track of subscribed consumers.

38. (Previously Presented) The system according to claim **37**, wherein:

said location tracker further comprises a consumer profile database for storing consumers' informational data.

39. (Previously Presented) The system according to claim **38**, wherein:

said location tracker further utilizes a consumer profile manager, wherein:

said manager allows consumers to customize and manage profile data in said database.

40. (Previously Presented) The system according to claim **37**, wherein:

said system further comprises a tracking device used to transmit location data continuously to said location tracker.

41. (Previously Presented) The system according to claim **40**, wherein:

said tracking device generates said location data from a source of positional data selected from the group consisting of:

a GPS receiver;
a cellular telephone; or
any other wireless system.

42. (Previously Presented) An e-commerce method for enhancing sales of service providers, said service providers in communication across networks and available to provide one or more specific services through directed sales to selected customers, said method comprising the steps of:

automatically detecting at least one sales opportunity based on at least one unexpected period of inactivity when a scheduled activity is blocked;

analyzing said at least one sales opportunity to determine whether said sales opportunity is a beneficial opportunity likely to generate an increase in sales;

matching said beneficial opportunity with information from a subscriber profile database to select one or more of said service providers as a selected service provider; and

notifying said selected service provider of said beneficial opportunity.

43. (Previously Presented) The method according to claim **42**, further comprising the step of:

providing an accounting functionality for said one or more of said service providers by analyzing events and transactions of actual sales.

44. (Previously Presented) The method according to claim **42**, wherein:

said step of matching said beneficial opportunity with information from a subscriber profile database further comprises using an external service provider profile database.

45. (Previously Presented) The method according to claim **44**, further comprising the step of:

managing and customizing profiles of said service providers in said service provider profile database.

46. (Previously Presented) The method according to claim **42**, further comprising the step of:
storing data of said events in an event database.

47. (Previously Presented) The method according to claim **42**, further comprising the step of:
obtaining rules from a channel rules database to be applied to particular channels.

48. (Previously Presented) The method according to claim **42**, further comprising the step of:
obtaining rules from an institutional/organizational profile database containing data of
selected institutions or organizations in which events may take place.

49. (Previously Presented) The method according to claim **48**, further comprising the step of:
managing and customizing profiles of institutions or organizations in said
institutional/organizational profile database.

50. (Previously Presented) The method according to claim **42**, further comprising the step of:
tracking schedules of subscribed consumers or said service providers.

51. (Previously Presented) The method according to claim **50**, further comprising the step of:

utilizing a tracking device to keep track of the location of said subscribed consumers.

52. (Previously Presented) The method according to claim **51**, wherein:

said tracking device generates said location data from a source of positional data selected from the group consisting of:

- a GPS receiver;
- a cellular telephone; or
- any other wireless system.

53. (Previously Presented) The method according to claim **50**, further comprising the step of:
storing a profile of at least one consumer in a consumer profile database.

54. (Previously Presented) The method according to claim **53**, further comprising the step of:
managing and customizing said profile of said at least one consumer in said consumer profile database.

55. (Previously Presented) An article of manufacture comprising a computer program product, said computer program product comprising a computer readable medium storing processor-executable program code:

said computer readable program code embodying a method comprising the steps of:
automatically detecting at least one sales opportunity based on at least one

unexpected period of inactivity when a scheduled activity is blocked;

analyzing said at least one sales opportunity to determine whether said sales opportunity is a beneficial opportunity likely to generate an increase in sales;

matching said beneficial opportunity with information from a subscriber profile database to select one or more of said service providers as a selected service provider; and

aiding in notifying said selected service provider of said beneficial opportunity.

EVIDENCE APPENDIX:

None

RELATED PROCEEDINGS APPENDIX:

None